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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,458	06/29/2001	Andrew W. Allemann	021604.0109	9006

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EXAMINER
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HECK, MICHAEL C

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/895,458

Applicant(s)

ALLEMANN ET AL.

Examiner

Michael C. Heck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/29/01; 2/10/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. The following is a First Office Action in response to the application filed 29 June 2001. Claims 1-55 are pending in this application and have been examined on the merits as discussed below.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 14-15 and 27-34** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For the process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, **claims 14, 27 and 30** only recites an abstract idea. As to **claim 14**, the recited steps of storing at least first and second goals; storing a relationship between the first goal and

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the second goal; detecting modification of the first goal; and in response to detecting modification of the first goal, facilitating goal alignment by causing the second goal to be automatically highlighted for alignment verification does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The method only constitutes an idea for managing goals, therefore, is deemed to be directed to non-statutory subject matter. As to **claim 27**, the recited steps of linking a first goal with a first team; and allowing a child goal of the first goal to be linked with a second team only if the second team is a child team of the first team does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The method only constitutes an idea for keeping relationships between goals, therefore, is deemed to be directed to non-statutory subject matter. As to **claim 30**, the recited steps of storing a team having a team owner and one or more team members; storing a team goal having a link to the team; and allowing a team-related goal that is linked to the team goal to be stored only the team related goal has a goal owner who is one of the one or more team members does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. The method only constitutes an idea for managing goals, therefore, is deemed to be directed to non-statutory subject matter.

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implications of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory

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subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble. In the present case, none of the recited steps are directed to anything in the technological arts as explained above. Looking at the claim as a whole, nothing in the body of the claim recites any structure or functionality to suggest that a computer performs the recited steps. Therefore, the preamble is taken to merely recite a field of use.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention produces a method for managing goals (i.e., repeatable, useful and tangible).

Looking at the claims as a whole, nothing in the body of the claims recite any structure or functionality to suggest that a computer performs a task. While claim 29 recites importing at least a third team into the goal management system for a personnel database, this amounts to only retrieving pre-existing data where nothing is done (i.e., computing) to breathe life into the invention.

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, the same rejection as stated above for claims 14, 27 and 30 applies to **claims 15, 28-29 and 31-34.**

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-55** are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer (Meyer, eWorkbench Real-time Tracking of Synchronized Goals, HR Magazine, April 2001 [GOOGLE]) in view of Avantos (Avantos, ManagePro for Macintosh® and Windows™, Reference Manual, version 2.0, Avantos Performance Systems, Inc. Copyright ©1993). Meyer discloses an automated system and method for managing goals comprising:

- **[Claim 14]** storing at least first and second goals (Para 3-4, Meyer teaches setting up a goal tracking record and allows workers to see how their goals fit into their departments objectives. The Examiner interprets that multiple goals are stored.);
- storing a relationship between the first goal and the second goal (Para 3-4, Meyer teaches and “align” button that allows a users to link the goal with the manager’s goal.);
- detecting modification of the first goal (Para 14, Meyer teaches an early warning capability that notifies both the manager and the employee when a deadline is missed. The Examiner interprets missing a deadline as a modification of a goal.); and

Meyer fails to teach in response to detecting modification of the first goal, facilitating goal alignment by causing the second goal to be automatically highlighted for alignment verification. Avantos teaches the Goal Status Board that uses colored lights and key database information that gives, at a glance, reinforcement of where the manager needs to focus their attention and intervene. Each goal is represented by a colored

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status light where green means 'not started', 'on track' or 'done', yellow means that at least one sub-goal is 'behind' and red means that at least one sub-goal has been designated as 'critical' (p. 2-28 to 2-33). The Examiner interprets that Avantos suggests verifying alignment since the sub-goals are identified as to their status with regard to the primary goal. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to include the status board of Avantos with the teachings of Meyer since Meyer teaches early warning capability (Para 14). Management's goal is to making sure the entire organization is focused on accomplishing the objectives of the organization. eWorkbench lets managers and line employees create and track goals, and align them with their employer's broad objectives (Meyer: Para 2). ManagePro helps a manager plan and manage using a hierarchy of goals that prompts the manager to think about key business goals that must be achieved for the business to succeed (Avantos: p. 2-1). Therefore, goal alignment helps managers ensure the organization is focuses on accomplishing the right task and objectives. Both Meyer and Avantos link goals; therefore there is a motivation to combine with a reasonable expectation of success. Meyers in combination with Avantos teach or suggest all the claim limitations.

- **[Claim 15]** in response to detecting modification of the first goal, automatically recognizing the second goal as requiring alignment verification, based on the stored relationship (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status board is the primary tool for monitoring the status of the primary business goals as driven by the progress of goals assigned to various people and teams. Each goal is represented by a colored status light where green means 'not started', 'on track' or 'done', yellow means that at least one sub-goal is 'behind' and red means that at least one sub-goal has been designated as 'critical'.); and
- wherein causing the second goal to be automatically highlighted is performed in response to recognizing the second goal as requiring alignment verification

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- (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status Board that uses colored lights and key database information that gives, at a glance, reinforcement of where the manager needs to focus their attention and intervene.).
- **[Claim 16]** storing an owner for a first goal in a data processing system (Meyer: Para 2, Meyer teaches the program allows individual goals to be linked with those of their bosses, all the way to the top. The Examiner interprets individual goals relate to ownership.);
  - storing a parent link relating the first goal to a parent goal in the data processing system (Meyer: Para 2, Meyer teaches the program allows individual goals to be linked with those of their bosses, all the way to the top.);
  - detecting modification of the parent goal (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status board is the primary tool for monitoring the status of the primary business goals as driven by the progress of goals assigned to various people and teams. Each goal is represented by a colored status light where green means 'not started', 'on track' or 'done', yellow means that at least one sub-goal is 'behind' and red means that at least one sub-goal has been designated as 'critical'.);
  - in response to detecting modification of the parent goal, automatically recognizing the first goal as requiring alignment verification, based on the parent link (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status Board that uses colored lights and key database information that gives, at a glance, reinforcement of where the manager needs to focus their attention and intervene.); and
  - in response recognizing the first goal as requiring alignment verification, causing the first goal be highlighted for alignment verification in a display associated with the owner of the first goal (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status board is the primary tool for monitoring the status of the primary business goals as driven by the progress of goals assigned to various people and teams. Each goal is represented by a colored status light where green means 'not started', 'on track' or 'done', yellow means that at least one sub-goal is 'behind' and red means that at least one sub-goal has been designated as 'critical'.).
  - **[Claim 17]** the first goal is highlighted in further response to receiving a request from the owner of the first goal to display one or more goals (Avantos: p. 2-29 to 2-30, Avantos teaches displaying more than one goal on the Goal Status Board window. The user can zoom in or out on the Goal Status Board.).



- **[Claim 18]** permitting each goal to be linked to no more than one parent goal (Meyer: Para 2 and 4, Meyer teaches the program allows individuals' goals to be linked with those of their bosses, all the way to the top. By clicking on the "align" button, the user is presented with a list of his manager's goals; the then clicks on the appropriate one to link it with his own. Managers also can create and automatically cascade goals down to their direct reports. The Examiner interprets each goal is linked to one parent.);
- **[Claim 19]** storing a reporting link that relates a reporting individual and a supervisor to whom the reporting individual reports directly (Meyer: Para 2, Meyer teaches the program allows individual goals to be linked with those of their bosses, all the way to the top.);
- storing a team owned by the reporting individual (Avantos: p. 3-2 and 3-9, Santos teaches ManagePro allows you to manage an entire team of people as you would a single individual. ManagePro allow you to assign people or teams to other teams or people.);
- detecting storage of a goal relating to the team by the reporting individual (Avantos: p. 2-10, Santos teaches the Goal Planner provides you with a quick means of linking individual or team goals to higher level business goals.);
- causing the goal to be automatically highlighted for approval in a display associated with the supervisor, based on the reporting link relating the reporting individual and the supervisor (Meyer: Para 13, Meyer teaches the collaborative tools force a high degree of communication about goals. By linking goals, establishing priorities, setting milestones and sharing responsibility for tracking progress, the process of goal setting can become a truly educational exercise, which produces a well-conceived, agreed-upon plan of action. The Examiner interprets that Meyers suggest the supervisor agrees to the goals.);
- **[Claim 20]** the goal is automatically highlighted for approval in response creation of the goal (Meyer: Para 13, Meyer teaches the collaborative tools force a high degree of communication about goals. By linking goals, establishing priorities, setting milestones and sharing responsibility for tracking progress, the process of goal setting can become a truly educational exercise, which produces a well-conceived, agreed-upon plan of action. The Examiner interprets goal setting as creation of the goal.);
- **[Claim 21]** the goal is automatically highlighted for approval in response to modification of the goal (Meyer: Para 13, Meyer teaches the collaborative

tools force a high degree of communication about goals. By linking goals, establishing priorities, setting milestones and sharing responsibility for tracking progress, the process of goal setting can become a truly educational exercise, which produces a well-conceived, agreed-upon plan of action. The Examiner interprets the process to be a negotiation process where goals are modified and agreed to.).

- **[Claim 22]** the goal is automatically highlighted for approval in response to creation of the reporting link (Meyer: Para 13, Meyer teaches the collaborative tools force a high degree of communication about goals. By linking goals, establishing priorities, setting milestones and sharing responsibility for tracking progress, the process of goal setting can become a truly educational exercise, which produces a well-conceived, agreed-upon plan of action. The Examiner interprets that linking goals establishes the supervisor/employee relationship, therefore is highlighted to be agreed upon.).
- **[Claim 23]** the goal is automatically highlighted for approval in response to a request from the supervisor to display one or more goals (Meyer: Para 2 and 13, Meyer teaches managers can quickly use their existing desktop computers to acquire detailed information about the status of their subordinates goals. The collaborative tools force a high degree of communication about goals. By linking goals, establishing priorities, setting milestones and sharing responsibility for tracking progress, the process of goal setting can become a truly educational exercise, which produces a well-conceived, agreed-upon plan of action.).
- **[Claim 24]** each reporting individual is linked to no more than one supervisor (Meyer: Para 2 and 4, Meyer teaches the program allows individuals' goals to be linked with those of their bosses, all the way to the top. By clicking on the "align" button, the user is presented with a list of his manager's goals; the then clicks on the appropriate one to link it with his own. Managers also can create and automatically cascade goals down to their direct reports. The Examiner interprets each goal is linked to one individual.).
- **[Claim 25]** one owner is named for each team (Avantos: p. 3-2 and 3-9, Santos teaches ManagePro allows you to manage an entire team of people as you would a single individual. ManagePro allow you to assign people or teams to other teams or people. Meyer: Para 2 and 4, Meyer teaches the program allows individuals' goals to be linked with those of their bosses, all the way to the top. By clicking on the "align" button, the user is presented with a list of his manager's goals; the then clicks on the appropriate one to link it with his own. Managers also can create and automatically cascade goals down to their direct reports. The Examiner interprets each goal is linked to one individual.).

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- **[Claim 26]** the goal is a team goal (Avantos: p. 2-10, Avantos teaches the Goal Planner provides you with a quick means of linking individual or team goals to higher level business goals.); and
- only the owner is permitted to manage the team goal (Avantos: p. 3-12, Avantos teaches a name of who is responsible is required; the value defaults to the person or team selected when you opened the form. You can enter more than one person or team. The Examiner interprets the choice of who can input progress details is left to the originator of the goal and is an option where only the originator of the goal can be designated to manage the team goal.);
- **[Claim 27]** linking a first goal with a first team (Avantos: p. 2-2 and 2-10, Avantos teaches the Goal Planner creates a hierarchy of goals, sub- goals and checkpoints. The Goal Planner provides you with a quick means of linking individual or team goals to higher level business goals.); and
- allowing a child goal of the first goal to be linked with a second team only if the second team is a child team of the first team (Avantos: p. 2-10, Avantos teaches the Goal Planner provides you with a quick means of linking individual or team goals to higher level business goals. Sometimes sub-goals can be used to support more than one primary or higher-level goal. ManagePro gives you a more efficient way to support multiple parent (higher level) goals with one sub-goal, called linking.);
- **[Claim 28]** each team has no more than one parent team (Avantos: p. 3-2, Avantos teaches ManagePro allows you to manage an entire team of people as you would a single individual. Meyer: Para 2 and 4, Meyer teaches the program allows individuals' goals to be linked with those of their bosses, all the way to the top. By clicking on the "align" button, the user is presented with a list of his manager's goals; the then clicks on the appropriate one to link it with his own. Managers also can create and automatically cascade goals down to their direct reports. The Examiner interprets team relationship are like individual relationships as used in the system and is determined by the user, therefore, teams can be linked linked individuals within an organization.);
- **[Claim 29]** importing at least a third team into the goal management system from a personnel database (Avantos: p. 7-26 to 7-29, Avantos teaches linking information between applications.);
- **[Claim 30]** storing a team having a team owner and one or more team members (Avantos: p. 3-2 and 3-8, Avantos teaches ManagePro allows you

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to manage an entire team of people as you would a single individual. To define team members, add the individual team member to the summary table and then define these people as members of that team. The Examiner interprets the person managing an entire team is the team owner.);

- storing a team goal having a link to the team (Avantos: p. 2-10, Avantos teaches the Goal Planner provides you with a quick means of linking individual or team goals to higher level business goals.); and
- allowing a team-related goal that is linked to the team goal to be stored only if the team related goal has a goal owner who is one of the one or more team members (Avantos: p. 3-2, 3-8 and 3-34 to 3-35, Avantos teaches ManagePro allows you to manage an entire team of people as you would a single individual. To define team members, add the individual team member to the summary table and then define these people as members of that team. Network access for people and teams can be controlled to include 'read only' or 'no access' to teams' own goals or all goals. Full access can be given to a person or team for the person's or team's own to do list.).
- **[Claim 31]** storing a personal goal that is not linked to any team goals or team-related goals (Avantos, p. 2-10 and 3-3, Avantos teaches the Goal Planner provides you with a quick means of linking individual or team goals to higher level business goals. The summary table displays a list of people and teams. The Examiner interprets that since both team and people are indicated in the summary level, so are the goals where and individual goal can be separate from a team goal.).
- **[Claim 32]** storing an owner for a first goal (Meyer: Para 2, Meyer teaches the program allows individual goals to be linked with those of their bosses, all the way to the top. The Examiner interprets individual goals relate to ownership.);
- storing a parent link relating the first goal to a parent goal (Meyer: Para 2, Meyer teaches the program allows individual goals to be linked with those of their bosses, all the way to the top.);
- detecting modification of the parent goal (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status board is the primary tool for monitoring the status of the primary business goals as driven by the progress of goals assigned to various people and teams. Each goal is represented by a colored status light where green means 'not started', 'on track' or 'done', yellow means that at least one sub-goal is 'behind' and red means that at least one sub-goal has been designated as 'critical'.);

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- in response to detecting modification of the parent goal, automatically recognizing the first goal as requiring alignment verification, based on the parent link (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status Board that uses colored lights and key database information that gives, at a glance, reinforcement of where the manager needs to focus their attention and intervene.); and
- in response to recognizing the first goal as requiring alignment verification, causing the first goal to be highlighted for alignment verification in a display associated with the owner of the first goal (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status board is the primary tool for monitoring the status of the primary business goals as driven by the progress of goals assigned to various people and teams. Each goal is represented by a colored status light where green means 'not started', 'on track' or 'done', yellow means that at least one sub-goal is 'behind' and red means that at least one sub-goal has been designated as 'critical'.).
- **[Claim 33]** storing a reporting link that relates a reporting individual and a supervisor to whom the reporting individual reports directly (Meyer: Para 2, Meyer teaches the program allows individual goals to be linked with those of their bosses, all the way to the top.);
- storing a team owned by the reporting individual (Avantos: p. 2-1, 3-2 and 3-8, Avantos teaches ManagePro helps you plan and manage using a hierarchy of goals. ManagePro allows you to manage an entire team of people as you would a single individual. To define team members, add the individual team member to the summary table and then define these people as members of that team.);
- detecting storage of third goal relating to the team by the reporting individual (Avantos: p. 2-3 and 2-10, Avantos teaches the Goal Planner provides you with a quick means of linking individual or team goals to higher level business goals. The Goal Planner – Top Level display shows more than one goal including at least three goals.); and
- causing the goal to be automatically highlighted for approval in a display associated with the supervisor, based on the reporting link relating the reporting individual and the supervisor (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status Board that uses colored lights and key database information that gives, at a glance, reinforcement of where the manager needs to focus their attention and intervene.).
- **[Claim 34]** linking a fourth goal with a first team (Avantos: p. 2-3 and 2-10, Avantos teaches the Goal Planner provides you with a quick means of linking

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individual or team goals to higher level business goals. The Goal Planner – Top Level display shows more than one goal including at least four goals.); and

- allowing a child goal of the fourth goal to be linked with a second team only if the second team is a child team of the first team (Avantos: p. 2-10, Avantos teaches the Goal Planner provides you with a quick means of linking individual or team goals to higher level business goals. Sometimes sub-goals can be used to support more than one primary or higher-level goal. ManagePro gives you a more efficient way to support multiple parent (higher level) goals with one sub-goal, called linking.);
- **[Claim 35]** creating first and second goals for storage in a goal management system (Para 3-4, Meyer teaches setting up a goal tracking record and allows workers to see how their goals fit into their departments objectives. The Examiner interprets that multiple goals are stored.);
- modifying the first goal (Avantos: p. 2-2. Avantos teaches you can edit goals);
- transmitting the modified first goal to the goal management system for storage (Avantos:, p. 1-8, Avantos teaches 'Save' that allows you to save a database that you have made changes to.); and
- receiving instructions to highlight the second goal as requiring alignment verification (Avantos: p. 2-28 to 2-32, Avantos teaches the Goal Status board is the primary tool for monitoring the status of the primary business goals as driven by the progress of goals assigned to various people and teams. Each goal is represented by a colored status light where green means 'not started', 'on track' or 'done', yellow means that at least one sub-goal is 'behind' and red means that at least one sub-goal has been designated as 'critical').

**Claims 1-13 and 36-55** substantially recite the same limitations as that of claims 14-35 with the distinction of the recited method being a system, software and a program product with a computer usable medium. Hence the same rejection for claims 14-35 as applied above applies to claims 1-13 and 36-55.

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Moody et al. (U.S. Patent 6,859,927) disclose an apparatus and method for controlling allocation of resources and task execution.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Michael C. Heck whose telephone number is (571) 272-6730. The Examiner can normally be reached Monday thru Friday between the hours of 8:30am - 4:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq R. Hafiz can be reached on (571) 273-6729.

Any response to this action should be mailed to:

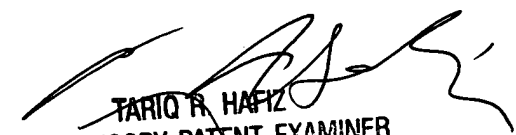
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**(571) 273-6730** [Informal/Draft communication, labeled "**PROPOSED**" or "**DRAFT**"]

*med*  
mch  
07 June 2005

  
**TARIQ R. HAFIZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600**